

# RULES PERTAINING TO THE PRACTICE OF VETERINARY MEDICINE

TEXAS ADMINISTRATIVE CODE  
TITLE 22, PART 24  
CHAPTER 573



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# CHAPTER 573 RULES OF PROFESSIONAL CONDUCT

## SUBCHAPTER A GENERAL PROFESSIONAL ETHICS

### **§573.1 AVOIDANCE OF CONFLICTING INTEREST**

A veterinarian shall not represent conflicting interests, except by express consent of all concerned given after a full disclosure of the facts. A veterinarian represents conflicting interests if, when employed by a buyer to inspect an animal for soundness, the veterinarian accepts a fee from the seller. Acceptance of a fee from both the buyer and seller is prima facie evidence of fraud.

**Source Note:** The provisions of this §573.1 adopted to be effective March 9, 1988, 13 TexReg 1026; amended to be effective March 1, 1999, 24 TexReg 1385

### **§573.2 AVOIDANCE OF ENCROACHMENT ON ANOTHER'S PRACTICE**

A licensee may not make any effort, direct or indirect, which in any manner is calculated to influence the sound professional judgment of another licensee. It is the right of any licensee, without fear or favor, to give proper advice to those seeking relief against substandard or neglectful veterinary or equine dentistry services, to make a complaint to the Board, or to act as a witness in a Board investigation or a contested hearing. A licensee who makes a complaint against another licensee that is groundless and brought in bad faith, for the purpose of harassment, retaliation, or for any other improper purpose shall be in violation of this rule.

**Source Note:** The provisions of this §573.2 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective May 4, 2014, 39 TexReg 3424

### **§573.3 EXPOSURE OF CORRUPT OR DISHONEST CONDUCT**

Licensees shall expose without fear or favor before the proper tribunal or the State Board of Veterinary Medical Examiners corrupt or dishonest conduct by other licensees.

**Source Note:** The provisions of this §573.3 adopted to be effective June 14, 2012, 37 TexReg 4229

### **§573.4 ADHERENCE TO THE LAW**

No licensee shall commit any act that is in violation of the laws of the State of Texas, other states, or of the United States, if the act is connected with the licensee's professional practice, including, but not limited to, the acts enumerated in §575.50(e) of this title (relating to Criminal Convictions). A complaint, indictment, or conviction of a law violation is not necessary for the enforcement of this rule. Proof of the commission of the act while in the practice of, or under the guise of the practice of, either veterinary medicine or equine dentistry, is sufficient for action by the Board under this rule.

**Source Note:** The provisions of this §573.4 adopted to be effective June 14, 2012, 37 TexReg 4229

### **§573.5 AVOIDANCE OF CORRUPTION OF OTHERS**

A licensee shall not render any service or advice directed toward the corruption of any person or persons exercising a public office or private trust, or deception, or betrayal of the public. A licensee shall not harass, discriminate against, or otherwise retaliate against a complainant or witness to a complaint, including but not limited to another licensee who provides information or an opinion in the matter.

**Source Note:** The provisions of this §573.5 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective May 4, 2015, 40 TexReg 2418

### **§573.6 RESTRICTION OF PARTNERSHIPS TO MEMBERS OF VETERINARY PROFESSION**

In the formation of partnerships for the practice of veterinary medicine, no person shall be admitted as a partner who is not a member of the veterinary profession, duly authorized to practice, and amenable to professional discipline. No person shall be held out as a practitioner of veterinary medicine or a member of the firm who is not so admitted. In the selection and use of a firm name, no false or misleading name shall be used. Partnerships between veterinarians and members of other professions or nonprofessional persons shall not be formed or permitted if a part of the partnership employment consists of the practice of veterinary medicine.

**Source Note:** The provisions of this §573.6 adopted to be effective June 14, 2012, 37 TexReg 4229

### **§573.7 NO ABUSE OF POSITION OR TRUST**

Any licensee who uses present or past position, or office of trust, deliberately to create an individual professional advantage, or to coerce, or to deceive the public shall be in violation of the rules of professional conduct. A licensee may not influence, or attempt to influence, the statement, response, or opinion of any person, licensed or unlicensed, to the Board if the Board has requested the statement or opinion.

**Source Note:** The provisions of this §573.7 adopted to be effective June 14, 2012, 37 TexReg 4229

### **§573.8 LOSS OF ACCREDITATION**

A licensee whose accreditation or license has been revoked or suspended by a state or federal authority is subject to disciplinary action by the Board. A licensee must report any accreditation, licensure, certification, or registration revocation or suspension to the Board within 30 business days.

**Source Note:** The provisions of this §573.8 adopted to be effective June 14, 2012, 37 TexReg 4229

### **§573.9 NONRESIDENT CONSULTANTS**

Veterinarians licensed in other states may enter the State of Texas, whether in person, by mail, or by electronic means, for purposes of consultation. Nonresident consultants may not establish a routine visit schedule of consultations in Texas. Consultants must, at all times, consult under the general supervision of a Texas veterinarian.

**Source Note:** The provisions of this §573.9 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective September 3, 2014, 39 TexReg 6860

## **SUBCHAPTER B SUPERVISION OF PERSONNEL**

### **§573.10 SUPERVISION OF NON-VETERINARIANS**

(a) With appropriate supervision and after establishing a veterinarian-client-patient relationship, a veterinarian may delegate veterinary care and treatment duties to non-veterinarian employees, or to the following independent contractors:

- (1) licensed equine dental providers, in accordance with §573.19 of this title (relating to Dentistry); or
- (2) individuals performing any form of musculoskeletal manipulation, including but not limited to animal chiropractic, in accordance with §573.14 of this title (relating to Alternate Therapies--Chiropractic and Other Forms of Musculoskeletal Manipulation).

(b) A veterinarian shall determine when general, direct, or immediate supervision of a non-veterinarian's actions is appropriate, except where such actions of the non-veterinarian may otherwise be prohibited by law. A veterinarian shall consider whether the individual is licensed by the Board, as well as the level of training and experience of the non-veterinarian, when determining the level of supervision and duties of non-veterinarians.

(c) A veterinarian is subject to discipline if he or she improperly delegates care and/or treatment duties to a non-veterinarian, or fails to properly supervise the non-veterinarian performing delegated duties.

(d) When feasible, a veterinarian may delegate greater responsibility to a licensed veterinary technician than to an unlicensed person.

(1) Veterinary supervision of licensed veterinary technicians:

(A) Under the direct or immediate supervision of a veterinarian, a licensed veterinary technician may:

- (i) suture to close existing surgical skin incisions and skin lacerations;
- (ii) induce anesthesia; and
- (iii) in dogs and cats, extract loose teeth or dental fragments with minimal periodontal attachments by hand and without the use of an elevator.

(B) Except where otherwise prohibited by law, under general veterinary supervision, a licensed veterinary technician may:

- (i) draw blood; and
- (ii) take samples for purposes of testing and diagnosis.

(2) Veterinary supervision of unlicensed employees:

(A) Under the immediate supervision of a veterinarian, an unlicensed employee of a veterinarian may:

- (i) suture to close existing surgical skin incisions and skin lacerations; and
- (ii) induce anesthesia.

(B) An unlicensed employee of a veterinarian may perform other tasks assigned by the supervising veterinarian under a level of supervision determined by the supervising veterinarian.

(C) An unlicensed employee may not, under any level of veterinary supervision, extract loose teeth or dental fragments from a dog or cat.

(e) Under the immediate supervision of a licensed veterinary technician, an unlicensed employee of a veterinarian may:

- (1) suture to close existing skin incisions and skin lacerations;
- (2) induce anesthesia;
- (3) draw blood;
- (4) take samples for the purpose of testing and diagnosis and;
- (5) perform other tasks in veterinary medicine, not otherwise prohibited by other subsections of this section or other laws, as assigned by the supervising veterinarian and according to a protocol established by the supervising veterinarian.

(f) A non-veterinarian shall not perform the following health care services:

- (1) surgery;
- (2) invasive dental procedures except as allowed for licensed equine dental providers under §573.19 of this title, and as allowed for licensed veterinary technicians under subsection (d)(1) of this section;
- (3) diagnosis and prognosis of animal diseases and/or conditions;
- (4) prescribing drugs and appliances; or
- (5) initiate treatment without prior instruction by a veterinarian, except in an emergency without expectation of compensation.

(g) Euthanasia may be performed by a non-veterinarian only under the immediate supervision of a veterinarian.



(h) A non-veterinarian may administer a rabies vaccine only under the direct supervision of a veterinarian, and only after the veterinarian has properly established a veterinarian-client-patient relationship.

(i) The use of a veterinarian's signature stamp or electronic signature pad on an official health document by a non-veterinarian shall be authorized only under the direct supervision of the vaccinating veterinarian.

(j) Exception for Emergency Care. In an emergency situation where prompt treatment is essential for the prevention of death or alleviation of extreme suffering, a veterinarian may, after determining the nature of the emergency and the condition of the animal, issue treatment directions to a non-veterinarian by means of telephone, electronic mail or messaging, radio, or facsimile communication and not be in violation of §801.351 of the Act. However, the Board may take action against a veterinarian if, in the Board's sole discretion, the veterinarian uses this authorization to circumvent this rule. The veterinarian assumes full responsibility for such treatment. However, nothing in this rule requires a veterinarian to accept an animal treated under this rule as a patient under these circumstances.

(k) Exception for Care of Hospitalized Animals. A non-veterinarian may, in the absence of direct supervision, follow the oral or written treatment orders of a veterinarian who is caring for a hospitalized animal, so long as the veterinarian has examined the animal(s) and a valid veterinarian-client-patient relationship exists.

**Source Note:** The provisions of this §573.10 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective December 25, 2012, 37 TexReg 9935; amended to be effective August 29, 2013, 38 TexReg 5486; amended to be effective May 4, 2014, 39 TexReg 3424; amended to be effective December 22, 2014, 39 TexReg 10016

#### **§573.11 RESPONSIBILITY FOR UNLICENSED EMPLOYEES**

(a) A veterinarian shall be responsible for any acts a non-veterinarian employee commits within the scope of the employee's employment.

(b) A licensed veterinary technician supervising an unlicensed employee of a veterinarian shall be responsible for any acts committed by that unlicensed employee of a veterinarian related to the practice of veterinary medicine.

(c) If a licensed veterinary technician acting under supervision of a veterinarian violates a law, regulation or board rule, both the veterinarian and the licensed veterinary technician are subject to discipline by the Board.

**Source Note:** The provisions of this §573.11 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective May 4, 2014, 39 TexReg 3426

#### **§573.12 RESPONSIBILITY FOR LICENSURE OF LICENSED PERSONS**

(a) A veterinarian who employs and/or supervises another veterinarian practicing veterinary medicine shall assure that the person is:

(1) actively licensed; and

(2) meets the requirements of §573.43 of this title (relating to Controlled Substances Registration) for registration with the federal Drug Enforcement Administration (DEA) and the Texas Department of Public Safety (DPS).

- (b) A veterinarian who employs and/or supervises an equine dental provider or a licensed veterinary technician shall ensure that each licensee is actively licensed.

**Source Note:** The provisions of this §573.12 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective May 4, 2014, 39 TexReg 3426

### **§573.13 DELEGATION AND SUPERVISION RELATING TO OFFICIAL HEALTH DOCUMENTS**

(a) A veterinarian must personally sign any official health documents issued by the veterinarian, and/or any official health documents for which the veterinarian has received compensation, regardless of whether said compensation is ultimately refunded, provided, however, that rabies certificates may be authenticated by either:

- (1) the veterinarian's personal signature; or
- (2) the use of a signature stamp or electronic signature by a non-licensed employee under direct supervision of the veterinarian.

(b) The issuance of any pre-signed or pre-stamped official health documents by a veterinarian is prohibited.

(c) Unless otherwise prohibited by law, and except as provided in subsection (d) of this section, a veterinarian may permit a non-licensed employee under the veterinarian's direct supervision, or under the immediate supervision of a licensed veterinary technician, to collect samples from animals for official tests.

(d) A person approved by the Texas Animal Health Commission (TAHC) and under the general supervision of a TAHC approved veterinarian may perform testing for brucellosis at a livestock market or collect blood samples on animals to be consigned directly from the ranch to slaughter and submit them to the state/federal laboratory for brucellosis testing.

**Source Note:** The provisions of this §573.13 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective May 4, 2014, 39 TexReg 3426

### **§573.14 ALTERNATE THERAPIES--CHIROPRACTIC AND OTHER FORMS OF MUSCULOSKELETAL MANIPULATION**

(a) Definition. For the purpose of this rule, animal chiropractic and other forms of musculoskeletal manipulation (MSM) are systems of therapeutic application of mechanical forces applied manually through the hands or any mechanical device to treat and/or alleviate impaired or altered function of related components of the musculoskeletal system of nonhuman animals. Animal chiropractic and other forms of MSM in nonhuman animals are considered to be alternate therapies in the practice of veterinary medicine.

(b) Treatment using animal chiropractic and other forms of MSM. Animal chiropractic and other forms of MSM may only be performed by the following.

(1) A licensed veterinarian. Animal chiropractic and MSM may be performed by a licensed veterinarian under the following conditions:

- (A) a valid veterinarian/client/patient relationship has been established as defined in the Act;
- (B) an examination has been made by the licensee to determine that animal chiropractic/MSM will not likely be harmful to the patient; and
- (C) the licensee obtains as a part of the patient's permanent record a signed acknowledgment by the owner or other caretaker of the patient that animal chiropractic or MSM is considered by Texas law to be an alternate therapy.

(2) A non-veterinarian employee or an independent contractor. A non-veterinarian employee or an independent contractor may perform these procedures on an animal under the direct or general supervision of the veterinarian if the conditions in paragraph (1)(A) - (C) of this subsection have been met.

(3) An individual to whom the exceptions of the Act, §801.004, apply.

(c) Responsibility. Whether the animal chiropractic/MSM is performed by a veterinarian or a non-veterinarian employee or an independent contractor working under the supervision of a licensee, the Board will hold the veterinarian to a level of professional judgment as would be exercised by the average Texas veterinarian who performs or recommends chiropractic/MSM treatments in his/her practice.

**Source Note:** The provisions of this §573.14 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective August 29, 2013, 38 TexReg 5486; amended to be effective May 4, 2014, 39 TexReg 3427

### **§573.15 USE OF ULTRASOUND IN DIAGNOSIS OR THERAPY**

(a) Definitions.

(1) Ultrasound--Mechanical radiant energy with a frequency greater than 20 kilocycles per second.

(2) Ultrasonics--That part of the science of acoustics dealing with the frequency range beyond the upper limit of perception by the human ear, but usually restricted to frequencies above 500 kilocycles per second.

(3) Ultrasonic radiation--The effect of ultrasound which is injurious to tissues because of its thermal effects when absorbed by living matter.

(4) Ultrasound therapy--Controlled doses of ultrasound used therapeutically to selectively break down pathologic tissues, as in treatment of arthritis and lesions of the nervous system.

(5) Diagnostic ultrasound--Ultrasound images used as a diagnostic aid by visually displaying echoes received from irradiated tissues.

(6) Ultrasonography--The visualization of deep structures of the body by recording the reflections of pulses of ultrasonic waves directed into the tissues.

(b) Use of ultrasound for diagnosis or therapy of animals. The use of ultrasound in animals to diagnose any condition or for any therapeutic purpose is the practice of veterinary medicine and shall only be performed by a licensed veterinarian or under the general supervision of a licensed veterinarian.

(c) Use of ultrasound by persons who are not licensed veterinarians.

(1) For diagnostic purposes. A person who is not a licensed veterinarian may perform ultrasonography on an animal for diagnostic purposes only if: the person administering the ultrasound is doing so at the request of a licensed veterinarian; the veterinarian has established a veterinarian/client/patient relationship; and it is the veterinarian who uses the ultrasonography to make a diagnosis.

(2) For therapeutic purposes. A person who is not a licensed veterinarian may perform ultrasonography on an animal for therapeutic purposes only if a veterinarian has: established a veterinarian/client/patient relationship; made a diagnosis; prescribed ultrasonics as a treatment; and the person administering the ultrasound is doing so at the specific request of a licensed veterinarian.

(d) Prohibited acts. Any person who uses ultrasound on animals in a manner inconsistent with this rule shall be in violation of this rule and the Texas Veterinary Licensing Act.

**Source Note:** The provisions of this §573.15 adopted to be effective June 14, 2012, 37 TexReg 4229

### **§573.16 ALTERNATE THERAPIES--ACUPUNCTURE**

(a) Definition. For the purpose of this rule, acupuncture is:

(1) the insertion of an acupuncture needle and the application of moxibustion to specific areas of a non-human animal's body to relieve the discomfort associated with painful disorders, to induce surgical anesthesia, and for therapeutic purposes; and

(2) the administration of thermal or electrical treatments or the recommendation of dietary guidelines, energy flow exercise, or dietary or herbal supplements in conjunction with the treatment described by paragraph (1)

of this subsection. Acupuncture in non-human animals is considered to be an alternate therapy in the practice of veterinary medicine.

(b) Use of Acupuncture in the treatment of animals. Only licensed veterinarians may use acupuncture in the care and medical treatment of animals. No veterinarian may allow a non-veterinarian employee or other agent to perform acupuncture in the treatment of an animal patient.

(c) Client Consent Required. Before acupuncture may be used in the treatment of an animal, the veterinarian must obtain a signed statement from the animal's owner or caretaker acknowledging that acupuncture is an alternate therapy in veterinary medicine and approving its use in the treatment of the animal. Before signing the statement, the veterinarian shall inform the client of the conventional treatments available and their probable ability to cure the problem. The statement shall become a permanent part of the patient's record.

(d) Standard Used in Determining Appropriate Use of Acupuncture. If the Board receives a complaint against a licensee about treatment involving the use of acupuncture, investigation of the complaint may include opinions from other licensees who use acupuncture in their treatment of animals. However, veterinarians who practice acupuncture shall exercise the same degree of humane care, skill, and diligence in treating patients as are ordinarily used in the same or similar circumstances by average members of the veterinary medical profession in good standing in the locality or community, or in similar locations or communities, in which they practice.

(e) Other Board Rules Not Preempted. Nothing in this rule shall remove or limit in any way the applicability of other rules of the Board as they apply to the practice of veterinary medicine.

**Source Note:** The provisions of this §573.16 adopted to be effective June 14, 2012, 37 TexReg 4229

#### **§573.17 ALTERNATE THERAPIES--HOLISTIC MEDICINE**

(a) Definition. For the purpose of this rule, holistic medicine means: the practice of veterinary medicine that believes in a blend of alternative and, if need be, conventional approaches of treatment in an effort to develop a system of complementary medicine to treat the whole patient. In practice, it incorporates less conventional methods such as herbal medicine, acupuncture, chiropractic, homeopathy, and applied kinesiology, with more conventional methods, such as modern drugs, surgery and diagnostics. Use of holistic medicine in non-human animals is considered to be an alternate therapy in the practice of veterinary medicine.

(b) Use of holistic medicine in the treatment of animals. Only licensed veterinarians may use holistic medicine in the medical treatment of animals. No veterinarian may allow a non-veterinarian employee or other agent to perform holistic medicine in the treatment of an animal patient.

(c) Client Consent Required. Before holistic medicine may be used in the treatment of an animal, the veterinarian must obtain a signed statement from the animal's owner or caretaker acknowledging that holistic medicine is an alternate therapy in veterinary medicine and approving its use in the treatment of the animal. Before signing the statement, the veterinarian shall inform the client of the conventional treatments available and their probable ability to cure the problem. The signed statement shall become a permanent part of the patient's record.

(d) Standard Used in Determining Appropriate Use of Holistic Medicine. If the Board receives a complaint against a licensee about treatment involving the use of holistic medicine, investigation of the complaint may include opinions from other licensees who use holistic medicine in their treatment of animals. However, veterinarians who practice holistic medicine shall exercise the same degree of humane care, skill, and diligence in treating patients as are ordinarily used in the same or similar circumstances by average members of the veterinary medical profession in good standing in the locality or community, or in similar localities or communities, in which they practice.

(e) Other Board Rules Not Preempted. Nothing in this rule shall remove or limit in any way the applicability of other rules of the Board as they apply to the practice of veterinary medicine.

**Source Note:** The provisions of this §573.17 adopted to be effective June 14, 2012, 37 TexReg 4229

### **§573.18 ALTERNATE THERAPIES--HOMEOPATHY**

(a) Definition. For the purpose of this rule, homeopathy is: a system of therapeutics in which diseases are treated by substances which are capable of producing in healthy animals symptoms like those of the disease to be treated, the substance being administered in minute doses. Use of homeopathic remedies in non-human animals is considered to be an alternate therapy in the practice of veterinary medicine.

(b) Use of Homeopathy in the Treatment of Animals. Only licensed veterinarians may use homeopathy in the medical treatment of animals. No veterinarian may allow a non-veterinarian employee or other agent to perform homeopathy in the treatment of an animal patient.

(c) Client Consent Required. Before homeopathy may be used in the treatment of an animal, the veterinarian must obtain a signed statement from the animal's owner or caretaker acknowledging that homeopathy is an alternate therapy in veterinary medicine and approving its use in the treatment of the animal. Before signing the statement, the veterinarian shall inform the client of the conventional treatments available and their probable ability to cure the problem. The signed statement shall become a permanent part of the patient's file.

(d) Standard Used in Determining Appropriate Use of Homeopathy. If the Board receives a complaint against a licensee about treatment involving the use of homeopathy, investigation of the complaint may include opinions from other licensees who use homeopathy in their treatment of animals. However, veterinarians who practice homeopathy shall exercise the same degree of humane care, skill, and diligence in treating patients as are ordinarily used in the same or similar circumstances by average members of the veterinary medical profession in good standing in the locality or community, or in similar localities or communities, in which they practice.

(e) Other Board Rules Not Preempted. Nothing in this rule shall remove or limit in any way the applicability of other rules of the Board as they apply to the practice of veterinary medicine.

**Source Note:** The provisions of this §573.17 adopted to be effective June 14, 2012, 37 TexReg 4229

### **§573.19 DENTISTRY**

(a) Dentistry, a subset of the practice of veterinary medicine, is:

(1) The application or use of any instrument or device to any portion of an animal's tooth, gum or any related tissue for the prevention, cure or relief of any wound, fracture, injury or disease of an animal's tooth, gum or related tissue; and

(2) Preventive dental procedures including, but not limited to, the removal of calculus, soft deposits, plaque, stains or the smoothing, filing or polishing of tooth surfaces.

(b) A non-licensed person may not perform any invasive dental procedure, as defined in §573.80 of this title (relating to Definitions), and as limited by subsection (e) of this section.

(c) Nothing in this regulation shall prohibit any person from utilizing cotton swabs, gauze, dental floss, dentifrice, or toothbrushes to clean an animal's teeth.

(d) In dogs and cats, a licensed veterinary technician under direct or immediate supervision of a veterinarian may extract loose teeth or dental fragments with minimal periodontal attachments by hand and without the use of an elevator.

(e) The following treatments may be performed to an equid by a licensed equine dental provider under general supervision by a veterinarian, and by a non-veterinarian employee under direct supervision by the veterinarian:

- (1) removing sharp enamel points;
- (2) removing small dental overgrowths;
- (3) rostral profiling of the first cheek teeth;
- (4) reducing incisors;
- (5) extracting loose, deciduous teeth;
- (6) removing supragingival calculus;
- (7) extracting loose, mobile, or diseased teeth or dental fragments with minimal periodontal attachments by hand and without the use of an elevator; and
- (8) removing erupted, non-displaced wolf teeth.

**Source Note:** The provisions of this §573.18 adopted to be effective June 14, 2012, 37 TexReg 4229

## **SUBCHAPTER C RESPONSIBILITIES TO CLIENTS**

### **§573.20 RESPONSIBILITY FOR ACCEPTANCE OF MEDICAL CARE**

(a) The decision to accept an animal as a patient is at the sole discretion of a veterinarian. The veterinarian is responsible for determining the diagnosis and course of treatment for an animal that has been accepted as a patient and for advising the client as to the diagnosis and treatment to be provided.

(b) For purposes of establishing a veterinarian-client-patient relationship under §801.351 of the Veterinary Licensing Act, Texas Occupations Code, a veterinarian can obtain sufficient knowledge of an animal by making medically appropriate and timely visits to the premises on which the animal is kept only if the animal is a member of a herd.

(c) A veterinarian must inform a client when:

- (1) the client has specifically requested that the veterinarian diagnose and/or treat the client's animal; and
- (2) the veterinarian reasonably believes there is a likelihood or possibility that another veterinarian may perform some or all of the diagnosis and/or treatment of the patient.

(d) Once a veterinarian-client-patient relationship has been established, a veterinarian may discontinue treatment:

- (1) at the request of the client;
- (2) after the veterinarian substantially completes the treatment or diagnostics prescribed;
- (3) upon referral to another veterinarian; or
- (4) after notice to the client providing a reasonable period for the client to secure the services of another veterinarian.

(e) Once a veterinarian establishes a veterinarian-client-patient relationship and prescribes medication(s), another Texas licensed veterinarian within the same clinic or hospital who has access to the patient's current medical records may refill that same prescription(s) without a veterinary-client-patient relationship.

**Source Note:** The provisions of this §573.20 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective August 29, 2013, 38 TexReg 5487; amended to be effective May 4, 2015, 40 TexReg 2418

### **§573.21 DIRECT RESPONSIBILITY TO CLIENT**

The professional services of a licensee shall not be controlled or exploited by any lay agency, personal or corporate, which intervenes between the client and the licensee. A licensee shall not allow a non-licensed person or entity to interfere or intervene with the licensee's practice; nor shall the licensee submit to such interference or intervention by a non-licensed person or entity. A licensee shall avoid all relationships which could result in interference or intervention in the licensee's practice by a non-licensed person or entity. A licensee shall be responsible for his or her own actions and is directly responsible to the client and for the care and treatment of the patient.

**Source Note:** The provisions of this §573.21 adopted to be effective June 14, 2012, 37 TexReg 4229

### **§573.22 PROFESSIONAL STANDARD OF CARE**

Licensees shall exercise the same degree of humane care, skill, and diligence in treating patients as are ordinarily used in the same or similar circumstances, including the type of practice, by average members of the veterinary medical profession in good standing in the locality or geographic community in which they practice, or in similar communities.

**Source Note:** The provisions of this §573.22 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective May 4, 2015, 40 TexReg 2419

### **§573.23 BOARD CERTIFIED SPECIALISTS**

(a) Standard of Care for Specialist. Specialists are held to a higher standard of care than non-specialist veterinarians, notwithstanding §573.22 of this title (relating to Professional Standard of Care).

(b) Complaints against Specialists. Board investigations of complaints alleging substandard care by a Specialist in his/her area of specialty will include consultations with one or more Specialists licensed by the Board practicing the same specialty on the species involved in the complaint. The Board, at its sole discretion, may consult with Specialists from outside of Texas. If the Board determines an informal conference is warranted, both complainant and respondent may, at their own expense, present oral or written commentary by a Specialist practicing the same specialty on the species involved in the complaint.

(c) Verification of Specialist Status. Specialists must make information verifying their certification or recognition as a specialist available to the Board, Board staff, and the public. This information must be available upon request.

**Source Note:** The provisions of this §573.23 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective August 17, 2015, 40 TexReg 5153

### **§573.24 RESPONSIBILITY OF VETERINARIAN TO REFER A CASE**

(a) A veterinarian shall have a duty to a client to suggest a referral to a specialist, or otherwise more qualified veterinarian, in any case where the care and treatment of the animal is beyond the veterinarian's capabilities. A veterinarian's decision on whether to accept or continue care and treatment of an animal, which may require expertise beyond the veterinarian's capabilities, shall be based on the exercise of sound judgment within the prevailing standard of care for a veterinarian faced with the same or similar circumstances.

(b) Complaints Regarding Failure to Make Proper Referral. Board investigations of complaints alleging failure to properly make referrals will include evaluation of the training and experience of the veterinarian, the availability of a specialist or more qualified veterinarian, the timeliness and adequacy of information provided to the client regarding the possible need for a referral, the requests of the client, and the likelihood that an adverse result could have been prevented by a timely referral.

**Source Note:** The provisions of this §573.24 adopted to be effective June 14, 2012, 37 TexReg 4229

#### **§573.25 ISSUANCE OF OFFICIAL HEALTH DOCUMENTS THROUGH DIRECT KNOWLEDGE ONLY**

Licensed veterinarians in this state shall not issue any official health documents for an animal without first having personally examined the individual animal and know of their own knowledge, by actual inspection and appropriate tests, that said animal meets the requirements for the issuance of the official health document. A veterinarian is deemed to have issued and to have knowledge of any official health documents issued in the veterinarian's name, written by veterinarian's employee and/or maintained in veterinarian's patient or client files. A veterinarian shall be responsible for the security and proper use of all official certificates, forms, records and reports, and shall take reasonable care to prevent the misuse thereof. A veterinarian shall immediately report to the TBVME the loss, theft or deliberate or accidental misuse of any such certificate, form, record or report.

**Source Note:** The provisions of this §573.25 adopted to be effective June 14, 2012, 37 TexReg 4229

#### **§573.26 AVOIDANCE OF GUARANTEEING CURES**

It is professionally dishonest for a licensee to guarantee a cure. A licensee must avoid bold and confident assurances to clients, especially where the licensee's employment may depend upon such assurance.

**Source Note:** The provisions of this §573.26 adopted to be effective June 14, 2012, 37 TexReg 4229

#### **§573.27 HONESTY, INTEGRITY, AND FAIR DEALING**

Licensees shall conduct their practice with honesty, integrity, and fair dealing to clients in time and services rendered, and in the amount charged for services, facilities, appliances, and drugs.

**Source Note:** The provisions of this §573.27 adopted to be effective June 14, 2012, 37 TexReg 4229

#### **§573.28 OBSERVANCE OF CONFIDENTIALITY**

- (a) A veterinarian shall not violate the confidential relationship between the veterinarian and a client.
- (b) Except as provided in subsection (c) of this section, a veterinarian shall not disclose any information concerning the veterinarian's care for an animal except:
  - (1) on written or oral authorization or other form of waiver executed by the client;
  - (2) on receipt by the veterinarian of an appropriate court order or subpoena; or
  - (3) as necessary to substantiate and collect on a debt incurred by a client for veterinary services.
- (c) A veterinarian may, without authorization by the client, disclose information contained in a rabies certificate or any information regarding reportable communicable diseases to a governmental entity only for purposes related to the protection of public health and safety.

**Source Note:** The provisions of this §573.28 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective August 17, 2015, 40 TexReg 5154

#### **§573.29 COMPLAINT INFORMATION AND NOTICE TO CLIENTS**

- (a) A licensed veterinarian or licensed equine dental provider shall provide an effective way to inform clients and other visitors to the premises, clinic or hospital of how to file complaints with the Board. The licensee must provide:
  - (1) the following specific address: Texas State Board of Veterinary Medical Examiners, 333 Guadalupe, Suite 3-810, Austin, Texas 78701-3942;
  - (2) the Board's telephone numbers: (512) 305-7555; fax: (512) 305-7556; and
  - (3) a toll-free complaint information number: 1-800-821-3205.



(b) Acceptable forms of providing the information in subsection (a) of this section may include a:

- (1) written notice form, with print size of at least 14 point, prominently displayed in the area of each clinic or hospital that is most frequented by the public;
- (2) brochure available in the area of each clinic or hospital that is most frequented by the public; or
- (3) statement on each written bill, invoice or receipt.

**Source Note:** The provisions of this §573.29 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective December 22, 2014, 39 TexReg 10017

## **SUBCHAPTER D ADVERTISING, ENDORSEMENTS AND CERTIFICATES**

### **§573.30 ADVERTISING**

A licensee may not engage in advertising that is false, deceptive, or misleading. A false, deceptive, or misleading advertising statement or claim includes, without limitation:

- (1) a prediction of future success or a guarantee that satisfaction or a cure will result from the performance of the advertised professional services;
- (2) illegal transactions;
- (3) a representation or implication that the announced services or facilities are superior in quality to those of other licensees which is not subject to reasonable verification by the public and/or would tend to create a false impression of the qualities of the professional services or facilities;
- (4) a statement or implication that a licensee is a certified or recognized specialist unless the licensee is a veterinarian who is board certified as recognized by the American Veterinary Medical Association in such specialty;
- (5) a claim that intends to create or is likely to create an inflated or unjustified expectation; or
- (6) an expressed or implied material misrepresentation of fact.

**Source Note:** The provisions of this §573.30 adopted to be effective June 14, 2012, 37 TexReg 4229

### **§573.32 SPECIALTY LISTINGS**

A veterinarian holding a current certificate of special competence in a particular field of veterinary medicine issued by the respective specialty boards in veterinary medicine, recognized by the American Veterinary Medical Association, may state in reputable veterinary directories, advertising or notices mailed to veterinarians, clients, former clients, personal friends, and relatives; the yellow pages of telephone directories distributed in the geographical area or areas in which the veterinarian resides or maintains offices or had his/her primary practice; and on professional cards or letterhead that he/she is certified in a particular field in the following words: "Board Certified (e.g., Veterinary Radiology)." A veterinarian must indicate his or her specialty whenever the veterinarian indicates that he or she is a specialist.

**Source Note:** The provisions of this §573.32 adopted to be effective June 14, 2012, 37 TexReg 4229

### **§573.33 DISPLAY OF DEGREE, CERTIFICATE, OR TITLE FROM APPROVED INSTITUTIONS ONLY**

A licensee shall not use or display any college degree, certificate, or title pertaining to veterinary medicine or equine dentistry granted by any institution not approved by the Texas State Board of Veterinary Medical Examiners.

**Source Note:** The provisions of this §573.33 adopted to be effective June 14, 2012, 37 TexReg 4229

#### **§573.34 AUTHORIZED DEGREES, CERTIFICATES, OR TITLES ONLY**

A licensee shall not use any certificate, college degree, or title to which he or she is not entitled.

**Source Note:** The provisions of this §573.34 adopted to be effective June 14, 2012, 37 TexReg 4229

#### **§573.35 DISPLAY OF LICENSE**

Each licensee, including a relief veterinarian, shall post or display at the licensee's practice location, whether mobile or fixed, his or her Board license. This document must be displayed where it is visible to the public. A legible photocopy of the original document is acceptable.

**Source Note:** The provisions of this §573.35 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective May 4, 2015, 40 TexReg 2419

#### **§573.36 CORPORATE AND ASSUMED NAMES**

Licensees shall not use a corporate or assumed name for their practice which would be false, deceptive, or misleading to the public.

**Source Note:** The provisions of this §573.36 adopted to be effective June 14, 2012, 37 TexReg 4229

#### **§573.37 BAN ON USE OF SOLICITORS**

A licensee shall not participate in arrangements which share the proceeds from professional services with individuals who may have been instrumental in his or her having been selected to perform the particular service.

**Source Note:** The provisions of this §573.37 adopted to be effective June 14, 2012, 37 TexReg 4229

### **SUBCHAPTER E PRESCRIBING AND/OR DISPENSING MEDICATION**

#### **§573.40 LABELING OF MEDICATIONS DISPENSED**

(a) A veterinarian shall affix labels to all unlabeled containers containing any medication dispensed and to all factory labeled containers that contain prescription (legend) drugs and/or controlled substances dispensed. The label must be affixed to the immediate container and include:

- (1) the veterinarian's name, address, and telephone number (including area code);
- (2) date of delivery or dispensing;
- (3) patient/client name (and address if drug is a controlled substance);
- (4) species of the animal;
- (5) name, strength, and quantity of the drug dispensed;
- (6) directions for use; and
- (7) cautionary statements as required by law, i.e. not for human consumption, poisonous, withdrawal periods, etc.

(b) If the immediate container is too small to be labeled, the small container shall be enclosed within another container large enough to be labeled.

**Source Note:** The provisions of this §573.40 adopted to be effective March 9, 1988, 13 TexReg 1027; amended to be effective November 20, 1992, 17 TexReg 7896; amended to be effective July 4, 2005, 30 TexReg 3877

#### **§573.41 USE OF PRESCRIPTION DRUGS**

(a) It is unprofessional conduct for a licensed veterinarian to prescribe, administer, dispense, deliver, or order delivered any prescription drug without first having established a veterinarian/client/patient relationship and determined that such prescription drug is therapeutically indicated for the health and/or well-being of the animal(s). Prescription drugs include all controlled substances in Schedules I - V and legend drugs which bear the federal legends, recognized as such by any law of the State of Texas or of the United States.

(b) It shall be unprofessional and a violation of the rules of professional conduct for a licensed veterinarian to prescribe, provide, obtain, order, administer, possess, dispense, give, or deliver to or for any person prescription drugs that are not necessary or required for the medical care of animals, or where the use or possession of such drugs would promote addiction thereto. Prescription drugs are defined in subsection (a) of this section.

(c) A licensed veterinarian prescribing, administering, dispensing, delivering, or ordering delivered any prescription drug must comply with the laws, including all rules, of both the United States and the State of Texas, including but not limited to Chapter 483 of the Texas Health and Safety Code.

**Source Note:** The provisions of this §573.41 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective December 23, 2014, 39 TexReg 10017

#### **§573.42 USE OF SCHEDULED DRUGS IN TRAINING AND/OR RACING**

Any licensed veterinarian who prescribes, provides, obtains, orders, administers, possesses, dispenses, gives or delivers scheduled drugs to or for any animal solely for training or racing purposes and not for a medically sound reason has violated the Veterinary Licensing Act.

**Source Note:** The provisions of this §573.42 adopted to be effective June 14, 2012, 37 TexReg 4229

#### **§573.43 CONTROLLED SUBSTANCES REGISTRATION**

(a) Subject to subsection (b) of this section, a licensed veterinarian may not prescribe, administer, dispense, deliver, or order delivered, any controlled substance unless the licensed veterinarian is currently registered with the federal Drug Enforcement Administration (DEA) and the Texas Department of Public Safety (DPS) to dispense controlled substances if such registration is required by other state or federal law.

(b) The requirement for DEA registration is waived for a licensed veterinarian who is not registered with the DEA to dispense controlled substances if:

- (1) a licensed veterinarian who is registered with the DEA to dispense controlled substances (registrant) supervises or employs the veterinarian who is not registered with the DEA to dispense controlled substances (non-registrant);
- (2) the registrant has knowledge that the non-registrant is dispensing and/or administering controlled substances in the usual course of the non-registrant's duties;
- (3) the registrant has given written permission for the non-registrant to dispense/administer under the registrant's license; and
- (4) the registrant has actual knowledge that the non-registrant is currently registered with the DPS and holds a current DPS controlled substances certificate.

(c) A licensed veterinarian who is not registered with the DEA but is registered with the DPS to dispense controlled substances and holds a current DPS controlled substances certificate may dispense and administer controlled substances, but may not procure, purchase or issue a prescription for a controlled substance.

(d) A licensed veterinarian registered with the DEA and/or DPS must comply with all relevant statutes and rules as required by DEA and/or DPS, including but not limited to chapter 481 of the Texas Health and Safety Code, Chapter 13 of Part 1 of Title 37 of the Texas Administrative Code, and Chapter 13 of Title 21 of United States Code.

**Source Note:** *The provisions of this §573.43 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective December 25, 2012, 37 TexReg 9937; amended to be effective December 23, 2014, 39 TexReg 10018*

#### **§573.44 COMPOUNDING DRUGS**

(a) A veterinarian may only compound drugs for a specific animal or herd with which the veterinarian has established and maintained a valid veterinarian-client-patient relationship.

(b) A veterinarian may only prescribe compounded drugs to treat a specific occurrence of a disease or condition, which threatens the health of the animal or will cause suffering or death if left untreated, that the veterinarian has observed and diagnosed in the particular patient for whom the compounded drugs are prescribed. The amount of a drug that a veterinarian compounds or orders compounded must not exceed the established need for specific compounded drugs for patients with which the veterinarian has established and maintained a valid veterinarian-client-patient relationship.

(c) Labeling Requirements.

(1) All compounded drugs must bear the labeling information required under §573.40 of this title (relating to Labeling of Medications Dispensed), as well as the following information:

- (A) date on which the drug was compounded;
- (B) name and strength of medically active ingredients;
- (C) identity of treated animals;
- (D) withdrawal/withholding times if needed; and
- (E) condition or disease to be treated.

(2) In addition to the information listed in paragraph (1) of this subsection, compounded drugs dispensed to the client must also state a date dispensed and an expiration date, which should not exceed the length of the prescribed treatment.

(d) Limitations on Compounded Products.

(1) A veterinarian shall not compound or order a drug compounded if there is a FDA-approved, commercially available animal or human drug that, when used as labeled or in an extra-label fashion in its available dosage form and concentration, will appropriately treat the patient.

(2) A veterinarian shall only compound or order compounded products with FDA-approved commercially available animal or human drugs as the active ingredients.

(3) A veterinarian shall not promote and/or distribute compounded drugs that are essentially similar to FDA-approved products.

(4) A veterinarian must ensure the safety and efficacy of a compounded drug, including but not limited to avoiding known drug incompatibilities and inappropriate combinations, and must use a pharmacist to perform drug compounding when the complexity of the compounding exceeds the veterinarian's knowledge, skill, facilities, or available equipment.

(e) Compounding for Food Producing Animals.

- (1) For animals intended for human consumption, a veterinarian must establish an extended withdrawal interval for the compounded product sufficient to ensure food safety and may not compound from any drugs prohibited for use in food producing animals. The withdrawal period must be supported by scientific information, and the veterinarian shall note the method used to determine the withdrawal interval in the patient records.
- (2) A veterinarian shall not compound or order a drug compounded if the compounded drug results in violative food residue, or any residue that may present a risk to public health.
- (3) Compounding from a human drug for use in food-producing animals is not permitted if an approved animal drug can be used for compounding.
- (4) Veterinarians shall ensure that procedures are in place to maintain the identity of treated animals, and shall note those procedures in the patient records.

(f) Limitations on Promotion and Sale of Compounded Drugs.

- (1) A veterinarian shall not prepare for sale any compounded drugs which employ fanciful names or trade names, colorings or other additives, or that in any way imply that the compounds have some unique effectiveness or composition.
- (2) A veterinarian shall not advertise, promote, display, resell, or in any other way market prepared compounded drugs.
- (3) A veterinarian shall not offer compounded drugs to other state licensed veterinarians, pharmacists or other commercial entities for resale.

**Source Note:** *The provisions of this §573.44 adopted to be effective June 14, 2012, 37 TexReg 4229*

**§573.45 EXTRA-LABEL OR OFF-LABEL USE OF DRUGS**

(a) Extra-label or off-label use is the actual or intended use of a drug in an animal that is not in accordance with the approved labeling, and includes, but is not limited to:

- (1) compounded drugs;
- (2) use in species not listed in the labeling;
- (3) use for diseases or other conditions not listed in the labeling;
- (4) use at dosage levels, frequencies, or routes of administration other than those stated in the labeling; and
- (5) deviation from the labeled withdrawal time based on these different uses.

(b) A veterinarian must use his or her discretion in the off-label use of drugs for animals. In exercising such discretion, a veterinarian shall consider, to the extent possible:

- (1) whether the off-label use of a drug meets the community standard of humane care and treatment set out in §573.22 of this title (relating to Professional Standard of Care);
- (2) the established safety of the off-label usage;
- (3) the inclusion of a drug in a standard veterinary formulary;
- (4) analyses of off-label usage in the veterinary medical literature and in articles and commentaries written by the veterinarian's peers in the veterinary medical profession;
- (5) information provided by the drug's manufacturer, vendor or the FDA as to whether off-label usage of a drug may present a risk to public health; and

(6) any other sources of pertinent information.

(c) If anticipated off-label use of a drug is not commonly accepted or used by average veterinarians in the community in which the veterinarian practices or if the off-label usage does not have an established safety record, the veterinarian shall orally or in writing inform the client that the off-label usage is not commonly accepted or used in the veterinary community and that such usage could pose a risk to the health of the animal. Any oral notification shall be recorded in the patient records.

(d) Extra-Label Drug Use in Food Producing Animals.

(1) For animals intended for human consumption, a veterinarian must establish an extended withdrawal interval sufficient to ensure food safety. The withdrawal period must be supported by scientific information, and the veterinarian shall note the method used to determine the withdrawal interval in the patient records.

(2) A veterinarian shall not prescribe an extra-label drug in a manner that will result in violative food residue, or any residue that may present a risk to public health.

(3) Veterinarians shall ensure that procedures are in place to maintain the identity of treated animals, and shall note those procedures in the patient records.

**Source Note:** The provisions of this §573.45 adopted to be effective June 14, 2012, 37 TexReg 4229

## **SUBCHAPTER F RECORDS KEEPING**

### **§573.50 CONTROLLED SUBSTANCES RECORDS KEEPING FOR DRUGS ON HAND**

Texas veterinarians shall maintain at their place of business records of all scheduled drugs listed in the Texas Controlled Substances Act in their possession. These records shall be maintained for a minimum of five years. A record shall be kept for each scheduled drug. The record shall contain the following information in addition to the name of the drug:

- (1) date of acquisition;
- (2) quantity purchased;
- (3) date administered or dispensed;
- (4) quantity administered or dispensed;
- (5) name of client and patient receiving the drug(s); and
- (6) total balance on hand of the scheduled drug.

**Source Note:** The provisions of this §573.50 adopted to be effective March 9, 1988, 13 TexReg 1028; amended to be effective July 6, 1990, 15 TexReg 3635; amended to be effective April 6, 2008, 33 TexReg 2695; amended to be effective December 23, 2013, 38 TexReg 9365

### **§573.51 RABIES CONTROL**

(a) Only the vaccinating veterinarian shall issue official rabies vaccination certificates. Each certificate shall contain the information required by 25 TAC §169.29 (relating to Vaccination Requirement) adopted by the Department of State Health Services, including:

- (1) owner's name, address and telephone number;
- (2) animal identification species, sex (including neutered if applicable), approximate age (three months to 12 months, 12 months or older), size (pounds), predominant breed, and colors;
- (3) vaccine used product name, manufacturer, and serial number;
- (4) date vaccinated;

(5) date vaccination expires (re-vaccination due date);

(6) rabies tag number if a tag is issued; and

(7) veterinarian's signature, or electronic signature, or signature stamp and license number, in accordance with §573.10 of this title (relating to Supervision of Non-Licensed Persons).

(b) Each veterinarian that issues a rabies vaccination certificate, or the veterinary practice where the certificate was issued, shall retain a readily retrievable copy of the certificate for a period of not less than five years from the date of issuance.

(c) A veterinarian having knowledge of an animal bite to a human shall immediately report the incident to the local health authority. A veterinarian preparing an animal's body for rabies diagnosis shall comply with all requirements of 25 TAC §169.33 (relating to Submission of Specimens for Laboratory Examination) adopted by the Department of State Health Services.

(d) A veterinarian who ceases the practice of veterinary medicine shall deliver to the local health authority all duplicate rabies vaccination certificates issued by the veterinarian within the preceding five-year period. A veterinarian who sells or leases his practice to another veterinarian may transfer duplicate rabies certificates with the records of the practice which are transferred to a new owner.

**Source Note:** The provisions of this §573.51 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective December 23, 2013, 38 TexReg 9365

#### **§573.52 VETERINARIAN PATIENT RECORD KEEPING**

(a) Individual records shall be maintained at the veterinarian's place of business, shall be complete, contemporaneous and legible and shall include, but are not limited to:

(1) name, address, and phone number of the client;

(2) identification of patient, including name, species, breed, age, sex, and description;

(3) patient history;

(4) dates of visits;

(5) any immunization records;

(6) weight if required for diagnosis or treatment. Weight may be estimated if actual weight is difficult to obtain;

(7) temperature if required for diagnosis or treatment except when treating a herd, flock, or a species, or an individual animal that is difficult to obtain a temperature;

(8) any laboratory analysis;

(9) any diagnostic images or written summary of results if unable to save image;

(10) differential diagnosis and/or treatment, if applicable;

(11) names, dosages, concentration, and routes of administration of each drug prescribed, administered and/or dispensed. If a drug is approved by the United States Food and Drug Administration (FDA) in only one concentration and the veterinarian is administering the FDA-approved drug at the FDA-approved concentration, the veterinarian may omit recording the concentration of the drug administered;

(12) other details necessary to substantiate or document the examination, diagnosis, and treatment provided, and/or surgical procedure performed;

(13) any signed acknowledgment required by §§573.14, 573.16, 573.17, and 573.18 of this title (relating to Alternate Therapies--Chiropractic and Other Forms of Musculoskeletal Manipulation, Alternate Therapies--Acupuncture, Alternate Therapies--Holistic Medicine, and Alternate Therapies--Homeopathy);

- (14) the identity of the veterinarian who performed or supervised the procedure recorded;
- (15) any amendment, supplementation, change, or correction in a patient record not made contemporaneously with the act or observation noted by indicating the time and date of the amendment, supplementation, change or correction, and clearly indicating that there has been an amendment, supplementation, change, or correction;
- (16) the date and substance of any referral recommendations, with reference to the response of the client;
- (17) the date and substance of any consultation concerning a case with a specialist or other more qualified veterinarian; and
- (18) copies of any official health documents issued for the animal.

(b) Maintenance of Patient Records.

- (1) Patient records shall be current and readily available for a minimum of five years from the anniversary date of the date of last treatment by the veterinarian.
- (2) A veterinarian may destroy medical records that relate to any civil, criminal or administrative proceeding only if the veterinarian knows the proceeding has been finally resolved.
- (3) Veterinarians shall retain patient records for such longer length of time than that imposed herein when mandated by other federal or state statute or regulation.
- (4) Patient records are the responsibility and property of the veterinarian or veterinarians who own the veterinary practice, provided however, the client is entitled to a copy of the patient records pertaining to the client's animals.
- (5) If the veterinarian discontinues his or her practice, the veterinarian may transfer ownership of records to another licensed veterinarian or group of veterinarians only if the veterinarian provides notice consistent with §573.55 of this title (relating to Transfer and Disposal of Patient Records) and the veterinarian who assumes ownership of the records shall maintain the records consistent with this chapter.

(c) When appropriate, veterinarians may substitute the words "herd", "flock" or other collective term in place of the word "patient" in subsections (a) and (b) of this section. Records to be maintained on these animals may be kept in a daily log, or the billing records, provided that the treatment information that is entered is adequate to substantiate the identification of these animals and the medical care provided. In no case does this eliminate the requirement to maintain drug records as specified by state and federal law and Board rules.

**Source Note:** The provisions of this §573.52 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective December 23, 2013, 38 TexReg 9365

### **§573.53 EQUINE DENTAL PROVIDER PATIENT RECORD KEEPING**

(a) Individual records shall be complete, contemporaneous and legible and shall include, but are not limited to:

- (1) name, address, and phone number of the client;
- (2) identification of patient, including name, breed, age, sex, and description;
- (3) patient history;
- (4) dates of visits;
- (5) other details necessary to substantiate or document the procedure performed; and
- (6) any amendment, supplementation, change, or correction in a patient record not made contemporaneously with the act or observation noted by indicating the time and date of the amendment, supplementation, change or correction, and clearly indicating that there has been an amendment, supplementation, change, or correction.



(b) Maintenance of Patient Records.

- (1) Patient records shall be current and readily available for a minimum of five years from the anniversary date of the date of last treatment by the equine dental provider.
- (2) Patient records are the responsibility and property of the equine dental provider, provided however, that equine dental providers shall give copies of records to the owner or caretaker authorizing treatment of the patient at the time of treatment, and shall provide copies of records to the supervising veterinarian on request, within 15 business days of the request.
- (3) An equine dental provider may destroy medical records that relate to any civil, criminal or administrative proceeding only if the equine dental provider knows the proceeding has been finally resolved.

**Source Note:** The provisions of this §573.53 adopted to be effective June 14, 2012, 37 TexReg 4229

**§573.54 PATIENT RECORDS RELEASE AND CHARGES**

- (a) Release of records pursuant to request. Upon the request of the client or their authorized representative, the veterinarian shall furnish a copy of the patient records, including a copy of any radiographs requested, within 15 business days of the request or in accordance with subsection (f) of this section, unless a longer period is reasonably required to duplicate the records.
- (b) Contents of records. For purposes of this section, "patient records" shall include those records as defined in §573.52 of this title (relating to Veterinarian Patient Record Keeping).
- (c) Allowable charges. The veterinarian may charge a reasonable fee for this service and, in non-emergency and non-acute situations, may withhold the records until such payment is received. A reasonable fee shall include only the cost of:
  - (1) copying, including the labor and cost of supplies for copying;
  - (2) postage, when the individual has requested the copy or summary be mailed; and
  - (3) preparing a summary of the records when appropriate.
- (d) Improper withholding for past due accounts. Patient records requested pursuant to a proper request for release may not be withheld from the client, the client's authorized agent, or the client's designated recipient for such records based on a past due account for care or treatment previously rendered to the patient.
- (e) The veterinarian shall be entitled to the reasonable fee prior to the release of the records unless the information is requested by another veterinarian or his or her agent for purposes of emergency or acute medical care.
- (f) The veterinarian must notify the requestor of records the amount of the reasonable fee within five (5) business days of the request. Once the veterinarian receives written or verbal notice from the requestor that the requestor accepts the reasonable fee and will pick up the records, the veterinarian must have the records copied and ready for delivery within ten (10) business days of receiving such notice.

**Source Note:** The provisions of this §573.54 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective May 4, 2015, 40 TexReg 2419

**§573.55 TRANSFER AND DISPOSAL OF PATIENT RECORDS**

- (a) Required Notification of Discontinuance of Practice. When a veterinarian discontinues the provision of veterinary services without the continuation of their practice, he or she is responsible for ensuring that clients receive reasonable notification and are given the opportunity to obtain copies of their records or arrange for the transfer of their patient records to another veterinarian.
- (b) Method of Notification.

(1) When a veterinarian discontinues the provision of veterinary services without the continuation of their practice, he or she shall provide notice to clients of when the veterinarian intends to terminate the practice or relocate, and will no longer be available to clients, and offer clients the opportunity to obtain a copy of their patient records.

(2) Notification shall be accomplished by:

(A) placing written notice in the veterinarian's office; and

(B) sending written notification to clients seen in the last three years notifying them of discontinuance of practice, or placing a notice in the local newspaper.

(c) Voluntary Surrender or Revocation of Veterinarian's License.

(1) Veterinarians who have voluntarily surrendered their licenses in lieu of disciplinary action or have had their licenses revoked by the Board must notify their clients, consistent with subsection (b) of this section, within 30 days of the effective date of the voluntary surrender or revocation.

(2) Veterinarians who have voluntarily surrendered their licenses in lieu of disciplinary action or have had their licenses revoked by the Board must obtain a custodian for their records to be approved by the Board within 30 days of the effective date of the voluntary surrender or revocation.

**Source Note:** The provisions of this §573.55 adopted to be effective June 14, 2012, 37 TexReg 4229

## **SUBCHAPTER G OTHER PROVISIONS**

### **§573.60 PROHIBITION AGAINST TREATMENT OF HUMANS**

A veterinarian shall not provide care and treatment of humans including prescribing and/or dispensing prescription medication for personal use by the veterinarian and/or another human. A veterinarian may render first aid or emergency care to a human if such action is without expectation of compensation in response to an emergency or disaster situation.

**Source Note:** The provisions of this §573.60 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective August 17, 2015, 40 TexReg 5154

### **§573.61 MINIMUM SECURITY FOR CONTROLLED SUBSTANCES**

Veterinarians shall adhere to the following to ensure security of controlled substances:

(1) Establish adequate security to prevent unauthorized access to controlled substances.

(2) Establish adequate security to prevent the diversion of controlled substances.

(3) During the course of business activities, do not allow any individual access to controlled substances storage areas except those authorized agents required for efficient operations.

(4) Controlled substances listed in Schedules I, II, III, IV, and V shall be stored in a securely locked, substantially constructed cabinet or security cabinet.

(5) The term "substantially constructed cabinet" means the following:

(A) A structure of wood or metal so constructed as to resist any entry by simple tools of attack such as screw drivers, crow bars, tire tools, pry bars, etc. Hinges should not be mounted with bolts or screws on outside of door and the locking devices should be installed internally as in a dead bolt type or the device should be of a type that has protected mounting screws or bolts to inhibit removal. The cabinet should be permanently constructed or attached to the building structure or fixtures so as to prevent the cabinet from being physically removed from the premises. If the cabinet is a metal file cabinet type, it should be permanently attached to prevent easy removal and have an external locking bar that secures the drawer or drawers.

(B) A security cabinet or safe equivalent in construction to a Class 6 Mosler Government Sales Security Filing Cabinet or a Class 5 Mosler Government Safe.

(C) A cabinet less substantially constructed may meet security requirements provided the cabinet is located in a room or area entrance to which has been so constructed that hinge mountings inhibit removal and a limited number of employees have keys or combinations to locking device. If combination locks are utilized, the combination can be changed upon termination of employees having knowledge of the combination. A veterinarian must maintain a written list of all persons that have access to the controlled substances storage areas, including the dates on which individuals are added or deleted from the list.

**Source Note:** The provisions of this §573.61 adopted to be effective June 14, 2012, 37 TexReg 4229

#### **§573.62 VIOLATION OF BOARD ORDERS/NEGOTIATED SETTLEMENTS**

(a) All persons that are subject of a Board order shall abide by the terms of the order. The Board may open a complaint against a person who violates a Board order and/or refer the person to the Attorney General for prosecution under the Veterinary Licensing Act, Texas Occupations Code, Chapter 801, and the Administrative Procedure Act, Government Code, §2001.202.

(b) The Board may deny a person's request to renew a license issued under Title 4, Chapter 801 of the Texas Occupations Code if the person has not paid an administrative penalty imposed under Title 4, Chapter 801 of the Texas Occupations Code. This section does not apply if:

- (1) the person's time to pay or request a hearing has not expired under Title 4, Chapter 801 of the Texas Occupations Code;
- (2) the person has requested a hearing under Title 4, Chapter 801 of the Texas Occupations Code, but the person's time to pay has not expired under the same statute or Board rules; or
- (3) the penalty is stayed.

**Source Note:** The provisions of this §573.62 adopted to be effective July 20, 1992, 17 TexReg 4753; amended to be effective March 22, 2005, 30 TexReg 1634; amended to be effective July 13, 2008, 33 TexReg 5527

#### **§573.63 INSPECTION OF FACILITIES AND RECORDS**

Licensees shall admit a representative of the Board, during regular business hours, to inspect equipment and business premises; examine and/or copy client and patient records, drug records, including, but not limited to, invoices, receipts, transfer documents, inventory logs, surgery logs; and all other associated records relating to the practice of veterinary medicine or equine dentistry.

**Source Note:** The provisions of this §573.63 adopted to be effective June 14, 2012, 37 TexReg 4229

#### **§573.64 CONTINUING EDUCATION REQUIREMENTS**

(a) Required Continuing Education Hours.

(1) Licensed Veterinarians. Seventeen (17) hours of acceptable continuing education shall be required annually for renewal of all types of Texas veterinary licenses, except as provided in subsection (b) of this section. Veterinary licensees who successfully complete the Texas State Board Licensing Examination shall receive credit for 17 continuing education hours for the calendar year in which they were examined and licensed.

(2) Licensed Equine Dental Providers. Six (6) hours of acceptable continuing education shall be required annually for renewal of Texas equine dental provider licenses.

(3) Licensed Veterinary Technicians. Ten (10) hours of acceptable continuing education shall be required annually for renewal of Texas veterinary technician licenses.

(4) A licensee shall earn the required hours of acceptable continuing education during the calendar year immediately preceding the licensee's application for license renewal. Should a licensee earn acceptable continuing education hours during the year in excess of the required hours, the licensee may carry over and

apply the excess hours to the requirement for the next year. Licensees may carry over excess hours to the following year only, and may not carry over more hours than the licensee is required to earn in a calendar year.

(5) Hardship extensions may be granted by appeal to the Executive Director of the Board. The executive director shall only consider requests for a hardship extension from licensees who were prevented from completing the required continuing education hours due to circumstances beyond the licensee's control. A hardship extension generally will not be allowed due to financial hardship or lack of time due to a busy professional or personal schedule. Requests for a hardship extension must be received in writing and in the Board offices by no later than December 15. Should such extension be granted, twice the number of hours of continuing education required for a standard annual license renewal shall be obtained in the two-year period of time that includes the year of insufficiency and the year of extension. Licensees receiving a hardship extension shall maintain records of the continuing education obtained and shall file copies of these records with the Board by attaching the records to the license renewal application submitted following the extension year, or by sending them to the Board separately if the licensee submits his or her renewal application electronically (on-line).

(b) Exemption from Continuing Education Requirements for Veterinary Licensees. A veterinary licensee is not required to obtain or report continuing education hours, provided that the veterinary licensee submits to the Board sufficient proof that during the preceding year the veterinary licensee was:

- (1) in retired status;
- (2) a veterinary intern or resident; or
- (3) out-of-country on charitable, military, or special government assignments for at least nine (9) months in a year; or
- (4) on inactive status. Veterinary licensees on inactive status may voluntarily acquire continuing education for purposes of reinstating his/her license to regular status.

(c) Make up Hours. The Board may require a licensee who does not complete the required hours of continuing education to make up the missed hours in later years. Hours required to be made up in a later year are in addition to the continuing education hours required to be completed in that year.

**Source Note:** The provisions of this §573.63 adopted to be effective June 14, 2012, 37 TexReg 4229

### **§573.65 PROOF OF ACCEPTABLE CONTINUING EDUCATION**

(a) Acceptable Continuing Education.

(1) Continuing Education hours shall be acceptable if they relate to clinical matters. For veterinary licensees, continuing education hours shall be acceptable if they relate to practice management.

(2) Acceptable continuing education hours shall be earned by:

(A) veterinary licensees and licensed veterinary technicians attending meetings sponsored or co-sponsored by the American Veterinary Medical Association (AVMA), AVMA's affiliated state veterinary medical associations and/or their continuing education organizations, AVMA recognized specialty groups, regional veterinary medical associations, local veterinary medical associations, and AVMA-accredited veterinary medical colleges and veterinary technician programs;

(B) equine dental provider licensees attending meetings sponsored or co-sponsored by the International Association of Equine Dentistry;

(C) veterinary licensees taking correspondence courses that require the licensee to take a test at the conclusion of the course and yield a certificate of completion;

(D) all licensees participating in verifiable, monitored on-line and video programs or other telecommunication discussions yield a certificate of completion and meet the following minimum standards:

(i) Inclusion of the following interactive experiences:

(I) direct, two-way verbal communication between attendees and the instructor at all times;

(II) direct, two way verbal communication between attendees at all times; and

(III) visual communication with the instructor;

(ii) The ability to document active participation by attendees through:

(I) verbal interaction and software documentation; and

(II) the use of real time on-line surveys that promote audience interaction and document the attendance and engagement of the participants;

(E) all licensees' self study, through any form of continuing education from which the licensee does not receive a certificate of completion, including reading articles in professional journals or periodicals, listening to audio tapes or CD's or viewing video tapes or similar devices that transmit a video image; or

(F) any other methods approved by the Executive Director and a Board member appointed by the Board president, by an advisory committee appointed by the Board president, or approved for veterinary licensees and licensed veterinary technicians by the Registry of Approved Continuing Education (RACE) of the American Association of Veterinary State Boards (AAVSB).

(b) Distribution of Continuing Education Hours.

(1) Veterinary Licensees.

(A) Of the required seventeen (17) hours of continuing education for veterinary licensees, no more than five (5) hours may be derived from either:

(i) correspondence courses; or

(ii) practice management courses.

(B) Hours claimed for self study shall not exceed three (3) hours.

(C) Hours claimed for online interactive, participatory programs shall not exceed 10 hours.

(D) Notwithstanding the allowable hours provided in subparagraphs (A) - (C) of this paragraph, at least seven (7) hours must be obtained from personal attendance at live courses, seminars and meetings providing continuing education.

(2) Equine Dental Provider Licensees.

(A) None of the required six (6) hours of continuing education for equine dental provider licensees may be derived from either correspondence courses or practice management courses.

(B) Hours claimed from self study shall not exceed one (1) hour.

(C) Hours claimed from online interactive, participatory programs shall not exceed two (2) hours.

(D) Notwithstanding the allowable hours provided in subparagraphs (A) - (C) of this paragraph, at least four (4) hours must be obtained from personal attendance at live courses and seminars providing continuing education.

(3) Licensed Veterinary Technicians.

(A) Licensed veterinary technicians are required to complete ten (10) hours of continuing education annually. Of the required ten (10) hours, no more than two (2) hours of continuing education for licensed veterinary technicians may be derived from practice management.

(B) No more than four (4) hours of continuing education for licensed veterinary technicians may be derived from correspondence courses.

(C) Hours claimed from self study shall not exceed two (2) hours.

(D) Hours claimed from online interactive, participatory programs shall not exceed four (4) hours.

(E) Notwithstanding the allowable hours provided in subparagraphs (A) - (D) of this paragraph, at least six (6) hours must be obtained from personal attendance at live courses and seminars providing continuing education.

(c) Proof of Continuing Education.

(1) The licensee shall sign a statement on the licensee's annual license renewal form attesting to the fact that the required continuing education hours have been obtained. If the licensee renews his license electronically (on-line), the licensee shall input an affirmation that the required continuing education hours have been obtained.

(2) The licensee shall maintain records which support the signed statement or affirmation. These documents must be maintained for the last four (4) calendar years and shall be available at the practice location for inspection to Board investigators upon request.

(3) Proof of attendance at live, on-site courses may require sign-in procedures, course checklists, certificates of course completion and other measures as directed by the Board. If the licensee attends a multi-day course and the certificate of completion reflects only a total number of continuing education credits that can be earned, proof of attendance must include a pre-printed schedule, agenda, or brochure on which the licensee marks the actual courses or seminars the licensee personally attended.

(4) For proof of on-line interactive courses, the licensee must provide a certificate from the provider showing the nature of the course, date taken, and the hours given.

(5) For proof of self-study, the licensee must provide a signed statement showing details, including dates, of the articles or courses read, videos observed, or audios listened to, and hours claimed.

**Source Note:** The provisions of this §573.65 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective May 4, 2014, 39 TexReg 3428

**§573.66 DISCIPLINARY ACTION FOR NON-COMPLIANCE WITH CONTINUING EDUCATION REQUIREMENTS**

Failure to complete the required hours without obtaining a hardship extension from the executive director, failure to maintain required records, falsifying records, or intentionally misrepresenting programs for continuing education credit shall be grounds for disciplinary action by the Board.

**Source Note:** The provisions of this §573.66 adopted to be effective June 14, 2012, 37 TexReg 4229

### **§573.67 CONTINUING EDUCATION AS DISCIPLINARY ACTION**

- (a) The Board may require a licensee who violates the Veterinary Licensing Act or the Board's Rules to participate in a program to acquire continuing education.
- (b) Continuing education hours required under this subsection shall be in addition to the hours required of all licensees, and shall be:
  - (1) based on the seriousness of the violation; and
  - (2) relevant to the violation committed by the license holder.

**Source Note:** *The provisions of this §573.67 adopted to be effective June 14, 2012, 37 TexReg 4229*

### **§573.68 MONITORING LICENSEE COMPLIANCE**

- (a) The Board shall conduct a compliance monitoring program to ensure that licensees comply with the requirements of Chapter 801, Texas Occupations Code (the Veterinary Licensing Act) and the Board's rules.
- (b) The Board's compliance monitoring program shall include on-site inspections of licensees' practices and inspections by mail.
- (c) After an inspection, licensees will normally be given 30 days to correct deficiencies and provide written documentation of the corrections. If no timely response is received within that time period, the inspection process will become an investigation and the Board will follow the formal investigative procedure.
- (d) After an initial inspection, if the licensee does not make required corrections to noted deficiencies, investigators may recommend to the director of enforcement to open an investigation within the spirit and intent of the program. When a deficiency involves flagrant disregard of the law, including illegal practices; improper use of prescription drugs; failure to account for drugs dispensed or administered; failure to comply with controlled substance registration requirements, continuing education requirements, and sanitation; and drug diversion and/or abuse, the compliance inspection shall be terminated and the investigator will open an investigation and the violations will be referred to the director of enforcement as a complaint.
- (e) When in a subsequent inspection a licensee is found to have failed to correct those deficiencies noted in the prior inspection, the investigator will advise the director of enforcement and the licensee that the licensee has continued to violate the Veterinary Licensing Act and/or Board rules.
- (f) The Board may, on an unannounced basis, inspect licensees who have been ordered to perform certain acts as a result of a previous inspection to verify that the licensees performed the required acts. If the licensee is found to have refused or failed to comply with the Board order, the investigator will prepare a report documenting the failure to comply and the report will be submitted to the Board for appropriate disciplinary action.

**Source Note:** *The provisions of this §573.68 adopted to be effective June 14, 2012, 37 TexReg 4229*

### **§573.69 CONDITIONS RELATIVE TO LICENSE SUSPENSION**

If a Board disciplinary action is taken against a licensee that results in the suspension of a license for a specified period of time, the Board shall identify specific conditions (or prohibitions) relative to the suspension. The conditions (or prohibitions) should be clearly stated as part of the negotiated settlement or Board order. The following guidelines will be utilized when specifying the conditions of a license suspension.

- (1) Licensees shall not practice nor give the appearance that they are practicing veterinary medicine or equine dentistry during the time of suspension. The Board may provide a notice of the Board's order of suspension for the licensee to post in the reception area or other place clearly visible to the public.



(2) Licensees shall not supervise other licensees, nor supervise, encourage, or allow any employee(s) who are not licensed to practice in Texas, to perform duties described as the practice of veterinary medicine or equine dentistry in the Veterinary Licensing Act, the Rules of Professional Conduct, and other policies of the Board.

(3) During the period of downtime, licensees shall notify all present and prospective employers of the Board order, including the terms, conditions, and restrictions imposed. Within 30 days of the effective date of the order and within 15 days of undertaking new employment, licensees shall cause their employers to provide written acknowledgment to the Board that they have read and understand the terms and conditions of the Board order.

(4) Licensees shall notify all veterinarians, equine dental providers, and veterinary technician employees with whom the licensee practices of the Board order and, within 30 days of the effective date of the order, licensees shall acknowledge to the Board in writing that this has been done.

(5) A sole practitioner's clinic or facilities may be used by the disciplined licensee for administrative purposes only. Examples are opening mail, referring patients, accepting payments on accounts, and general office tasks. In these instances, he/she must exercise extreme caution to not be persuaded, coerced, or otherwise drawn by anyone to practicing or even giving the appearance of practicing veterinary medicine or equine dentistry. The licensee may lease the clinic/practice to, or employ, another licensee to continue the clinic business during suspension.

(6) A disciplined veterinarian who owns/operates a clinic and employs associate veterinarians may enter the clinic or hospital for administrative purposes only, as cited in paragraph (5) of this section.

(7) Licensee shall abide by the Board's order and conform to all laws, rules, and regulations governing the practice of veterinary medicine and equine dentistry in Texas.

(8) If the Board receives information alleging that the licensee is practicing during the period of suspension (downtime), Board staff will initiate an investigation. If there is evidence to support the allegation, the licensee will be subject to further disciplinary action.

**Source Note:** The provisions of this §573.69 adopted to be effective June 14, 2012, 37 TexReg 4229

#### **§573.70 REPORTING OF CRIMINAL ACTIVITY**

(a) A licensee or an applicant for a license from the Board shall report to the Board no later than the 30th day after he or she is charged with, or convicted of, any misdemeanor related to the practice of veterinary medicine or equine dentistry, or any felony, including but not limited to the acts enumerated in §575.50(e) of this title (relating to Criminal Convictions).

(b) On a finding by the Board that a licensee has engaged in non-drug related criminal conduct or committed a non-drug related felony or misdemeanor, other than a misdemeanor under the Uniform Act Regulating Traffic or Highways, Texas Civil Statutes, Article 6701d, or a similar misdemeanor traffic offense, the executive director shall notify the district attorney or county attorney of the county in which the licensee resides. The notice must be in writing and contain a copy of the Board's finding and any order of the Board relating to the licensee's conduct.

(c) On a finding by the Board that a licensee has engaged in drug related criminal conduct or committed a drug related felony or misdemeanor, the executive director shall notify the Narcotics Service, Texas Department of Public Safety and/or the U.S. Drug Enforcement Administration. The notice must be in writing and contain a copy of the Board's finding and any order of the Board relating to the licensee's conduct.

**Source Note:** The provisions of this §573.70 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective August 29, 2013, 38 TexReg 5489; amended to be effective May 4, 2015, 40 TexReg 2420

### **§573.71 OPERATION OF TEMPORARY LIMITED-SERVICE VETERINARY SERVICES**

(a) Requirements for operation. Veterinarians operating temporary limited service clinics shall:

- (1) maintain sanitary conditions at the clinic site, including, but not limited to, removal of animal solid waste and sanitizing/disinfecting of urine and solid waste sites;
- (2) provide injections with sterile disposable needles and syringes;
- (3) utilize a non-porous table for examining and/or injecting small animals;
- (4) maintain biologics and injectable medications between temperature ranges of 35 to 45 degrees Fahrenheit;
- (5) perform and complete blood and fecal examinations before dispensing relevant federal legend medications;
- (6) maintain rabies vaccination records and treatment records for five years, indexed alphabetically by the client's last name and by vaccination tag numbers, if issued; and
- (7) provide clients with a printed form that contains the identity of the administering veterinarian and the address of the places where the records are to be maintained.

(b) Required notification to the Board prior to operation. Before any temporary limited-service clinic may be operated, the veterinarian is required to provide notification to the Board office at least 48 hours before the clinic begins operation. Notice must include the veterinarian's full name, license number, and daytime phone number; the date the clinic will be held, the specific location of where the clinic will be held, and times of operation; and the permanent address where records for the clinic will be kept. Notice may be by electronic transmission or mail. Mailed notice will be considered to have met the notification requirement if the written notice is postmarked at least five days prior to the operation of the clinic.

**Source Note:** The provisions of this §573.71 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective December 25, 2012, 37 TexReg 9937; amended to be effective May 4, 2014, 39 TexReg 3428; amended to be effective August 17, 2015, 40 TexReg 5154

### **§573.72 EMPLOYMENT BY NONPROFIT OR MUNICIPAL CORPORATIONS**

- (a) A nonprofit or municipal corporation may employ or contract with a veterinarian to provide veterinary services in connection with sheltering, sterilization, vaccination, or other medical care and treatment of animals.
- (b) Employment by or contractual service to a nonprofit or municipal corporation does not exempt the veterinarian from any of the provisions of the Veterinary Licensing Act or the Board's rules.
- (c) Veterinarians employed by, or contracted to, nonprofit or municipal corporations shall be liable for any violations of the Act or rules occurring as a result of the practice of veterinary medicine or any veterinary services provided by the nonprofit or municipal corporation, including those occurring due to the acts or omissions of non-licensed employees of, or volunteers for, the nonprofit or municipal corporation.

**Source Note:** The provisions of this §573.72 adopted to be effective June 14, 2012, 37 TexReg 4229

### **§573.73 ANIMAL REPRODUCTION**

(a) The Board considers the following activities the practice of veterinary medicine as defined in the Veterinary Licensing Act, Texas Occupations Code, §801.002:

- (1) surgical invasion of the reproductive tract of an animal, including laparoscopy and needle entry unless performed under the direct supervision of a veterinarian;
- (2) obtaining, possessing or administering prescription or legend drugs for use in an animal without a valid prescription from a licensed veterinarian or in a properly labeled container dispensed by a licensed veterinarian; and

(3) a breeding soundness examination, which is defined as the assessment of an animal by a veterinarian to determine the animal's ability or potential for reproduction, and includes, but is not limited to, diagnosis by rectal palpation of reproduction structures, ultrasonography, semen collection and microscopic examination, serum/blood chemistry analysis, cytology, and biopsy of tissue.

(b) The activities described in this section do not affect those activities exempted from coverage of the Veterinary Licensing Act, Texas Occupations Code, §801.004.

**Source Note:** The provisions of this §573.73 adopted to be effective June 14, 2012, 37 TexReg 4229

#### **§573.74 MANAGEMENT SERVICES ORGANIZATIONS IN VETERINARY PRACTICE**

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Control--the ability to order or dictate the delivery or the manner of delivery of any services or tasks. Consulting with another person regarding a service or task, or assisting in the performance of a service or task, does not constitute control.

(2) Intervene--directly altering the practice of veterinary medicine. Recommending or providing a service or supply or performing management services under this section does not constitute intervention.

(3) Management services--those services and activities relating to the operation of a veterinary practice exclusive of the practice of veterinary medicine.

(4) Management services organization--a person or entity that provides management services.

(5) Veterinary medical personnel--persons under the direct or general supervision, as defined by the Veterinary Licensing Act, Texas Occupations Code, §801.002, of a veterinarian who perform duties directly related to the practice of veterinary medicine.

(b) Management Services Contracts. A veterinarian or group of veterinarians, whether or not incorporated, may contract with a management services organization to provide management services.

(c) Prohibited Practices. A management services organization shall not control or intervene in a veterinarian's practice of veterinary medicine. Prohibited activities by a management services organization, whether or not authorized by contract, include but are not limited to:

(1) employing a veterinarian to practice veterinary medicine;

(2) determining the compensation of a veterinarian for the practice of veterinary medicine;

(3) controlling or intervening in a veterinarian's diagnosis, treatment, correction, change, manipulation, relief, or prevention of animal disease, deformity, defect, injury or other physical condition, including the prescription or administration of a drug, biologic, anesthetic, apparatus, or other therapeutic or diagnostic substance or technique;

(4) controlling or intervening in a veterinarian's selection or use of type or quality of medical supplies and pharmaceuticals to be used in the practice of veterinary medicine;

(5) determining the amount of time a veterinarian may spend with a patient;

(6) owning drugs, unless the drugs are owned in compliance with applicable Texas or federal law;

(7) owning and controlling the records of patients of the veterinarian;

(8) determining the fees to be charged by the veterinarian for the veterinarian's practice of veterinary medicine;

(9) mandating compliance with specific professional standards, protocols or practice guidelines relating to the practice of veterinary medicine;

- (10) placing limitations or conditions upon communications that are clinical in nature with the veterinarian's clients;
  - (11) requiring a veterinarian to make referrals in violation of Texas Occupations Code §801.402(11); or
  - (12) penalizing a veterinarian for reporting violations of a law regulating the practice of veterinary medicine.
- (d) Veterinarians, and entities in which veterinarians are the sole owner, shareholders or partners, are not prohibited from performing the activities set out in subsection (c)(1) - (10) of this section.
- (e) Permitted Management Services. Permitted activities by a management services organization include but are not limited to:
- (1) providing by lease, ownership or other arrangement:
    - (A) the facility used by the veterinarian in the practice of veterinary medicine;
    - (B) the medical equipment, instruments and supplies used by the veterinarian in the practice of veterinary medicine; and
    - (C) the business, office and similar non-medical equipment used by the veterinarian.
  - (2) providing for the repair, maintenance, renovation, replacement or otherwise of any facility or equipment used by the veterinarian in the practice of veterinary medicine;
  - (3) providing accounting, financial, payroll, bookkeeping, budget, investment, tax compliance and similar financial services to the veterinarian;
  - (4) providing information and information systems and services for the veterinarian so long as any patient records in these systems are clearly owned and freely accessed by the veterinarian;
  - (5) providing the services of billing and collection of the veterinarian's fees and charges;
  - (6) arranging for the collection or sale of the veterinarian's accounts receivable;
  - (7) providing advertising, marketing and public relations services in compliance with §§573.30 - 573.37 of this title (relating to Advertising, Endorsements and Certificates) pertaining to the practice of veterinary medicine;
  - (8) providing contract negotiation, drafting and similar services for the veterinarian;
  - (9) providing receptionist, scheduling, messaging and similar coordination services for the veterinarian;
  - (10) obtaining all licenses and permits necessary to operate a practice of veterinary medicine that may be obtained by a non-veterinarian, and assisting veterinarians in obtaining licenses and permits necessary to operate a practice of veterinary medicine that may be obtained only by a veterinarian, provided that the Executive Director of the Board approves the method of payment for veterinary license renewals paid by the management services organization;
  - (11) assisting in the recruiting, continuing education, training and legal and logistical peer review services for the veterinarian;
  - (12) providing insurance, purchasing and claims services for the veterinarian, and including the veterinarian and veterinary medical personnel on the same insurance policies and benefit plans as the management services organization;
  - (13) providing consulting, business and financial planning and business practice and other advice;
  - (14) establishing the price to be charged to the veterinary client for the goods and supplies provided or managed by the management services organizations;
  - (15) employing and controlling persons who:
    - (A) perform management services;

- (B) are veterinarians employed by a management services organization to perform management services but not the practice of veterinary medicine; or
- (C) perform management, administrative, clerical, receptionist, secretarial, bookkeeping, accounting, payroll, billing, collection, boarding, cleaning and other functions; or
- (16) employing veterinary medical and other personnel, if a veterinarian present at the practice location who is in charge of veterinary medicine for that practice location at which the veterinary medical and other personnel work has the right to:
  - (A) control the medically related procedures, duties, and performance of the veterinary medical and other personnel; and
  - (B) suspend for medically related reasons the veterinary medical and other personnel unless the suspension is contrary to law, regulation or other legal requirements.
- (f) Disclosure of Contracts.
  - (1) A veterinarian or a group of veterinarians that contract with a management services organization shall:
    - (A) make available for inspection by the Board at the main office of the veterinarian or group of veterinarians, pursuant to §573.66 of this title (relating to Disciplinary Action for Non-Compliance with Continuing Education Requirements), copies of the contracts with the management services organizations; and
    - (B) if the Board opens an investigation against a veterinarian or a group of veterinarians, make available to the Board copies of the contracts with the management services organizations.
  - (2) Verbal contracts will not be considered evidence of compliance with this rule.
  - (3) Copies of contracts produced under this subsection shall be governed by the Veterinary Licensing Act, Texas Occupations Code, §801.207.

**Source Note:** The provisions of this §573.74 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective December 23, 2014, 39 TexReg 10018

### **§573.75 DUTY TO COOPERATE WITH BOARD**

A licensee shall:

- (1) cooperate fully with any Board inspection or investigation; and
- (2) respond within twenty-one (21) days of receipt to requests for information regarding complaints and other requests for information from the Board, except where:
  - (A) the Board in contacting a licensee imposes a different response date; or
  - (B) the licensee is unable for good cause to meet the response date and requests a different response date.

**Source Note:** The provisions of this §573.75 adopted to be effective June 14, 2012, 37 TexReg 4229

### **§573.76 NOTIFICATION OF LICENSEE ADDRESSES**

- (a) Each licensee shall report to the Board the licensee's:
  - (1) name and license number;
  - (2) clinic or practice name;
  - (3) physical business address;
  - (4) mailing address;

- (5) residence address;
- (6) business telephone number; and
- (7) residence and/or cellular telephone number.

(b) A mailing address may be a post office box number. A physical business address shall be a physical location and shall not be a post office box number. If a remote practice location does not have a physical business address, the licensee must provide as the physical business address sufficient directions as to how the practice location may be found.

(c) A relief veterinarian's physical business address shall be the physical business address where the relief veterinarian regularly conducts the largest percentage of his or her relief work at one clinic. If the relief veterinarian does not have one clinic where he or she conducts the largest percentage of his or her work, then the relief veterinarian shall use the physical address of one of the locations where he or she works. If the relief veterinarian is not actively working, then the relief veterinarian may use his or her physical residence address, which shall not be a post office box number.

(d) A licensee shall notify the Board of any change of items required under subsection (a) of this section not later than the 60th day after the change takes place.

**Source Note:** The provisions of this §573.76 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective December 23, 2014, 39 TexReg 10018; amended to be effective August 17, 2015, 40 TexReg 5155

#### **§573.77 STERILIZATION OF ANIMALS FROM RELEASING AGENCIES**

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:

- (1) Releasing agency--a public or private animal pound, shelter, or humane organization. This term does not include an individual who occasionally renders humane assistance or shelter in the individual's home to a dog or cat.
- (2) Animal--a dog or cat.
- (3) Microchip--a transponder that is placed under an animal's skin by an injector and can be read by a microchip scanner.
- (4) Tattoo--a permanent etching formed by injecting ink into the basal layer of the epidermis of an animal.

(b) Sterilization required. A new owner of an animal released from a releasing agency must have the animal sterilized in accordance with Chapter 828, Health and Safety Code.

(c) Identification markers. An animal sterilized under this section must be identified by a microchip and/or a tattoo indicating that it has been sterilized.

- (1) A new owner of an animal with a microchip shall be responsible for providing information to the data base registry of the microchip manufacturer indicating that the animal has been sterilized.
- (2) A tattoo must:
  - (A) be placed on the inside of the animal's thigh near the abdomen or on the caudal-ventral abdomen;
  - (B) be imprinted with ink that is manufactured in the United States;
  - (C) meet the standards of the federal Food and Drug Administration for tattooing;
  - (D) be of a contrasting color to the predominant color of the skin in which it is tattooed; and
  - (E) consist of the universal symbol for male or female overlain by a slash through the circle to indicate sterilization.

**Source Note:** The provisions of this §573.77 adopted to be effective June 14, 2012, 37 TexReg 4229

#### **§573.78 DEFAULT ON STUDENT LOAN/CHILD SUPPORT PAYMENTS**

(a) A licensee who has defaulted on a student loan or breached a student loan repayment contract by failing to perform his or her service obligation under the contract, or any other agreement between the licensee and the administering entity, relating to payment of a student loan may be subject to disciplinary action by the Board.

(b) A licensee, who has a final order under Chapter 232 of the Texas Family Code suspending the license for failure to pay child-support and/or where the Office of the Attorney General has notified the Board to not renew the license for failure to pay child-support, may be subject to disciplinary action by the Board.

**Source Note:** The provisions of this §573.78 adopted to be effective June 14, 2012, 37 TexReg 4229

#### **§573.79 MAINTENANCE OF SANITARY PREMISES**

Licensees must maintain their offices/clinics/hospitals and the offices/clinics/hospitals in which they work, including mobile facilities, in a clean and sanitary condition without any accumulation of trash, debris, or filth. Such premises shall be maintained in full compliance with all health requirements of the city or county in which located and in conformity with the health laws of the State of Texas; further, they shall use properly sterilized instruments and clean supplies.

**Source Note:** The provisions of this §573.79 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective August 17, 2015, 40 TexReg 5155

#### **§573.80 DEFINITIONS**

The following words and terms, when used in the Veterinary Licensing Act (Chapter 801, Texas Occupations Code) or the Rules of the Board (Texas Administrative Code, Title 22, Part 24, Chapters 571, 573, 575, and 577) shall have the following meanings, unless the context clearly indicates otherwise:

(1) Accepted livestock management practices--those practices involving animals raised or produced primarily for food, fiber, or other products for human consumption, and may include the following:

(A) branding, tattooing, ear tags or identifying marks of any kind;

(B) tail docking, except cosmetic tail docking that is performed for appearance purposes only;

(C) earmarking;

(D) routine dehorning, except cosmetic dehorning that reshapes or alters the poll area for appearance purposes;

(E) castration;

(F) non-surgical assistance with birthing;

(G) implantation with approved implant products;

(H) administration of a biologic, except where restricted by law to administration by a veterinarian, and not including deworming by use of stomach tubing;

(I) artificial insemination;

(J) shoeing and trimming hooves; and

(K) application or administration of parasiticides, except where restricted by law.

(2) Designated caretaker--a person to whom the owner of an animal has given specific authority to care for the animal and who has not been designated, by using the pretext of being a designated caretaker, to circumvent the Veterinary Licensing Act (Chapter 801, Texas Occupations Code) by engaging in any aspect of the practice of veterinary medicine (including alternate therapies). A designated caretaker who treats an

animal for a condition that the animal was known or suspected of having prior to the person being named a designated caretaker, is presumed to be attempting to circumvent the Veterinary Licensing Act unless the designated caretaker is following the instruction of a veterinarian and is under the appropriate level of supervision per board rules. In this situation, the designated caretaker may present evidence to rebut the presumption.

(3) Food production animals--any mammals, poultry, fowl, fish or other animals that are raised primarily for human food consumption.

(4) Biologic--any serum, vaccine, antitoxin, or antigen used in the prevention or treatment of disease.

(5) Pregnancy testing--the diagnosis of the physical condition of pregnancy by any method other than the gross visual observation of the animal.

(6) Invasive dentistry or invasive dental procedures--exposing of the dental pulp, or performing extractions.

(7) Consultation--the act of rendering professional advice (diagnosis and prognosis) about a specific veterinary medical case, but does not include treatment or surgery.

(8) General Supervision--a veterinarian required to generally supervise a non-veterinarian must be readily available to communicate with the person under supervision.

(9) Direct Supervision--a veterinarian required to directly supervise a non-veterinarian must be physically present on the same premises as the person under supervision.

(10) Immediate Supervision--a veterinarian required to immediately supervise a non-veterinarian must be within audible and visual range of both the animal patient and the person under supervision.

(11) Official Health Documents--any certificate attesting to the health, vaccination status, physical condition and/or soundness of an animal.

(12) Specialist--a veterinarian that is a Board Certified Diplomate of a specialty organization recognized by the American Veterinary Medical Association.

(13) Non-veterinarian employee--an individual paid directly by a veterinarian for work involving the practice of veterinary medicine, as defined in the Veterinary Licensing Act, Texas Occupations Code, §801.002(5), regardless of the defined status of the employment relationship between the individual and the veterinarian under Internal Revenue Service regulations.

(14) Herd--a group of animals of the same species, managed as a group and confined to a specific geographic location. A herd may not include dogs, cats, any animal in individual training, or any animal that competes as an individual.

**Source Note:** The provisions of this §573.80 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective December 25, 2012, 37 TexReg 9937; amended to be effective August 29, 2013, 38 TexReg 5490

#### **RULE §573.81 MANDATORY REPORT BY LICENSEE**

(a) A licensee shall report to the Board in the manner prescribed under subsection (b) of this section if the licensee has reasonable cause to suspect that:

(1) the ability of another licensee to provide veterinary, LVT, or EDP services safely and reasonably is impaired by chemical dependency; or

(2) another licensee generally poses a continuing threat to the public welfare.

(b) A report by a licensee under subsection (a) of this section must:

(1) Be in writing and signed; and

(2) Include the identity of the licensee and any additional information required by the Board.



(c) A licensee may not suspend or terminate the employment or otherwise retaliate against, discipline, or discriminate against, a person who:

(1) Reports in good faith under this section; or

(2) Advises a licensee of the licensee's rights and obligations under this section.

(d) A licensee satisfies his or her duty to report in accordance with subsection (a)(1) of this section by reporting the other licensee to the Board's approved Peer Assistance Program.

**Source Note:** *The provisions of this §573.81 adopted to be effective May 4, 2015, 40 TexReg 2420*